

ENTERED

January 05, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JEWELL THOMAS,

Plaintiff,

V.

ISAAC KWARTENG, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:22-CV-00163

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court is Magistrate Judge Julie Hampton’s Memorandum and Recommendation (“M&R”). (D.E. 10). The M&R recommends that the Court: (1) retain Plaintiff’s Americans with Disabilities Act (“ADA”) and Rehabilitation Act (“RA”) claims against Defendants Dr. Isaac Kwarteng, Jerry Sanchez, Dr. Lanette Linthicum, and Bobby Lumpkin in their official capacities; (2) dismiss without prejudice Plaintiff’s 42 U.S.C. § 1983 claims for money damages against Defendants Dr. Isaac Kwarteng, Jerry Sanchez, Dr. Lanette Linthicum, Christi McGlothin, and Bobby Lumpkin in their official capacities as barred by the Eleventh Amendment; and (3) dismiss with prejudice Plaintiff’s remaining Eighth Amendment, due process, and ADA/RA claims against Defendants Dr. Isaac Kwarteng, Jerry Sanchez, Dr. Lanette Linthicum, Christi McGlothin, and Bobby Lumpkin in their individual and official capacities as frivolous and/or for failure to state a claim for relief. *Id.* at 21–22.

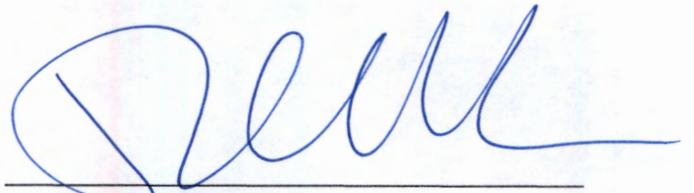
The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge’s M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge’s M&R is clearly erroneous or contrary to law. *United*

States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Badaiki v. Schlumberger Holdings Corp.*, 512 F. Supp. 3d 741, 743–44 (S.D. Tex. 2021) (Eskridge, J.).

Having reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 10). Accordingly, the Court **ORDERS** the following:

- (1) Plaintiff's ADA and RA claims against Dr. Isaac Kwarteng, Jerry Sanchez, Dr. Lanette Linthicum, and Bobby Lumpkin in their official capacities are retained at this time.
- (2) Plaintiff's 42 U.S.C. § 1983 claims for money damages against Dr. Isaac Kwarteng, Jerry Sanchez, Dr. Lanette Linthicum, Christi McGlothin, and Bobby Lumpkin in their official capacities are **DISMISSED without prejudice** as barred by the Eleventh Amendment.
- (3) Plaintiff's remaining Eighth Amendment, due process, and ADA/RA claims against Dr. Isaac Kwarteng, Jerry Sanchez, Dr. Lanette Linthicum, Christi McGlothin, and Bobby Lumpkin in their individual and official capacities are **DISMISSED with prejudice** as frivolous and/or for failure to state a claim for relief.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
January 5, 2023